

**Planning Commission Minutes  
September 7, 2017**

**Public Hearing**

**Case No. 17ZONE1013**

**Request:** Change in zoning from PRO - Planned Research Office to PEC – Planned Employment Center, with Waivers

**Project Name:** FW Owens Company, LLC

**Location:** 4011 Shepherdsville Road

**Owner:** The Williams Group, LLC

**Applicant:** FW Owens Company LLC

**Representative:** William Bardenwerper – Bardenwerper Talbott & Roberts PLLC

**Jurisdiction:** Louisville Metro

**Council District:** 10 – Pat Mulvihill

**Case Manager:** Laura Mattingly, AICP, Planner II

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**An audio/visual recording of the Planning Commission public hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

**02:34:37** Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

**The following spoke in favor of the request:**

John Talbott, 1000 N Hurstbourne Parkway, Louisville, KY 40223  
David Garber, 2249 Commerce Parkway, La Grange, KY 40031

**Summary of testimony of those in favor of the request:**

**02:40:55** John Talbott spoke on behalf of the applicant and showed a presentation. F.W. Owens is a Louisville-based company that has been in business for 80 years. It is now owned by Mark Heckman. He discussed the details of the project.

**02:53:00** David Garber offered to answer any questions about drainage. Commissioner Brown commented that all parking spaces designated on the plan

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would need to be on a hard, durable surface. Mr. Garber stated that they would use blacktop or concrete for parking.

**02:55:43** Acting Chair Carlson suggested the addition of stone columns or some other detailing in place of actual window openings along the Shepherdsville Road side. Mr. Talbott stated that cost was one consideration for the waiver request, and that the structure will be far more aesthetically pleasing than other warehouses in this area. Mr. Garber stated that they were looking into options for different color schemes and "faux windows."

**The following spoke in opposition to the request:**

No one spoke.

**The following spoke neither for nor against:**

No one spoke.

**Deliberation:**

**03:00:10** Commissioners' deliberation

**Zoning Change**

**03:12:00** On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the request meets the intents of **GUIDELINE 1: COMMUNITY FORM**. The application complies with the Suburban Workplace Form District which is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting; this application and the Detailed District Development Plan (DDDP) accompanying this application demonstrate compliance with the Suburban Workplace Form District given how the site will be utilized and will satisfy the Land Development Code (LDC) requirements of the PEC zoning and the Suburban Workplace Form District requirements, and

**WHEREAS**, the Commission further finds that the request meets the intents of **GUIDELINE 2: ACTIVITY CENTERS**. The application complies with the applicable Intents and Policies 1, 2, 4, 5, 14, 15 and 16 of this Guideline because the Intents and applicable Policies of this Guideline seem to pertain more to commercial and mixed uses, the concepts of planned, efficient and compact development along or near transit routes all pertain to this site and area; it matters not so much what the specific zoning is for a given property in this area

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as matters the relationship of uses on properties and their proximities to uses of similar and compatible kinds; and the application complies with this Guideline because of the fact that, as stated above, this and all of the nearby properties are similarly intense workplaces dependent upon good transportation systems for the kinds of truck traffic that utilize them and employees that generally work during the peak traffic hours, and

**WHEREAS**, the Commission further finds that the request meets the intents of **GUIDELINE 3: COMPATIBILITY**. The application complies with the applicable Intents and Policies 1, 2, 5, 6, 7, 8, 9, 12, 17, 21, 22, 23, 24, and 29 of this Guideline because the Intents and applicable Policies all pertain to the issues of impact mitigation; sometimes this can be through building design and materials; given that the adjoining and nearby properties as referenced above encompass a wide variety of relatively intense industrial, commercial and office users, the land and building design for this site is, compatible with all these others; as a contractor's shop, its main impact will be occasional, not continuous, traffic in and out of the site; and apart from that it should not have any negative odor, noise, lighting or visual impacts on nearby like kind users, and

**WHEREAS**, the Commission further finds that the request meets the intents of **GUIDELINE 6: ECONOMIC GROWTH AND SUSTAINABILITY**. The application complies with the applicable Intents and Policies 1, 2, 4, 6, 8, 10 and 11 of this Guideline because the Intents and applicable Policies of this Guideline all pertain to the issues of assuring availability of adequate usable land for such uses as these, to reduce public and private costs for land development, to preserve workplaces, to provide for appropriate access, to invest in developing and redeveloping industrial areas, to locate industries where other industries already exist and in the activity centers in and around those industrial areas, to assure that transportation is adequate in and out of industrial areas and properties such as this, and to continue to redevelop and adaptively reuse vacant properties like this, and

**WHEREAS**, the Commission further finds that this property is available to accommodate an essential use to a community that needs contractors to continue to build and develop in order to grow; and the applicant plans to redevelop and utilize this property in a manner compatible with adjoining and surrounding uses, and

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**WHEREAS**, the Commission further finds that the request meets the intents of **GUIDELINES 7, 8 and 9: CIRCULATION, TRANSPORTATION FACILITIES AND ALTERNATIVE TRANSPORTATION MODES**. The application complies with the applicable Intents and Policies 1, 2, 3, 4, 10, 11, 12 and 15 of Guideline 7, Policies 5, 7, 9, 10, and 11 of Guideline 8, and Policies 1, 2, 3 and 4 of Guideline 9 of these Guidelines because this application will comply with the multiplicity of issues that are typically reviewed by Metro Transportation Planning and Public Works in connection with those agencies' reviews of DDDPs such as the one submitted with this application; in that regard, Garber-Chilton Engineers, a professional land planning and engineering firm that has worked on this DDDP, has already taken into account in its design such issues as appropriate access, internal circulation, adequate parking, adequacy of street access, appropriate site distances and even whether sidewalks and bicycles need to be provided/accommodated; all of these things have been addressed on the DDDP accompanying this application, which has received the preliminary stamp of approval, prior to docketing for Planning Commission consideration, and

**WHEREAS**, the Commission further finds that the request meets the intents of **GUIDELINES 10 & 11: FLOODING, STORMWATER AND WATER QUALITY**. The application complies with the applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 of these Guidelines because the Intents and applicable Policies of these Guidelines raise issues that are already regulated by MSD; it received the preliminary stamp of approval from MSD demonstrating compliance with all of these Policies; that is to say that storm water will be accommodated at the nearby regional detention basin; further, at construction stage, work done on this property must be performed in compliance with the soil erosion and sediment control regulations of MSD; and provisions for water quality must also be addressed on construction plans, pursuant to MSD regulations, and

**WHEREAS**, the Commission further finds that the request meets the intents of **GUIDELINE 12: AIR QUALITY**. The application complies with the applicable Intents and Policies 1, 2, 3, 4, 6, 8 and 9 of this Guideline because this is a Suburban Workplace Form District to and from which employees and truck traffic already commute for employment and business purposes and because nearby road systems are adequate to accommodate all of this traffic, this proposal has a positive impact on air quality by not increasing vehicle miles traveled or further congesting already congested roads, and

**WHEREAS**, the Commission further finds that the request meets the intents of **GUIDELINE 13: LANDSCAPE CHARACTER**. The application complies with the applicable Intents and Policies 1, 2, 4, and 6 of this Guideline because the

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landscape plan discussed at LD&T and at the Public Hearing and eventually to be filed post DDDP approval, will comply with the LDC subject to the waivers requested, and

**WHEREAS**, the Commission further finds that the request meets the intents of **GUIDELINES 14 & 15: INFRASTRUCTURE AND COMMUNITY FACILITIES**. The application complies with the applicable Intents and Policies 2, 3, 4, 6 and 7 of Guideline 14 and Policies 3, 4, and 9 of Guideline 15 of these Guidelines because adequate water supply, sewage treatment, other utility services and public services are available to serve this site, and

**WHEREAS**, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from PRO, Planned Research Office to PEC, Planned Employment Center.

**The vote was as follows:**

**YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, Smith, and Lindsey.**

**NO: No one**

**NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.**

**ABSTAIN: No one**

**Waivers**

**03:12:48** On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted:

**Waiver of Sections 5.5.2.A.1 and 5.6.1.B.1 to omit the requirement to provide animating features on the building façade along Shepherdsville Road**

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested waiver will not adversely affect adjacent property owners as the street view will

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be enhanced with landscaping that will mitigate for the lack of animating features along the façade, and

**WHEREAS**, the Commission further finds that Guideline 3, Policies 1 and 2 call for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill; (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 60% of the façade. These guidelines are not violated, as the building materials are compatible with surrounding development, the building is setback off of Shepherdsville Road, and landscaping is being used to enhance the development's frontage, and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the new building is setback farther than the existing building, the materials are consistent with the existing building and new landscaping will mitigate for the lack of animating features, and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as animating features to this extent are impractical for this development, and

**WHEREAS**, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

**Waiver of Section 10.2.12 to provide Interior Landscape Areas less than 290 square feet in area**

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**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as the total interior landscape requirement will still be met, meeting the intent of the requirement, and

**WHEREAS**, the Commission further finds that Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. This policy is not violated, as the total Interior Landscape Area requirement is met and the proposal still includes ILAs that break up the impervious surface and meet the intent of the requirement, and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the total square footage requirement is met and increasing the square footage to 290 for each would require design changes to the parking layout and a possible decrease in the needed parking, and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as meeting the 290 square foot requirement would require the parking layout to be changed that would require significant site design changes and possible loss of needed parking, and

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the waivers as referenced above.

**The vote was as follows:**

**YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, Smith, and Lindsey.**

**NO: No one**

**NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.**

**ABSTAIN: No one**

**Detailed District Development Plan**

**03:14:00** On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted:

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**WHEREAS**, the Louisville Metro Planning Commission finds that while the proposal will be removing some tree canopy, they are also preserving 6% of the total site area in tree canopy and planting additional trees to meet the 12% requirement, and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the proposed improved vehicular access and right of way dedication. Transportation has given their preliminary approvals, and

**WHEREAS**, the Commission further finds that this proposal does not require open space or amenity area, and

**WHEREAS**, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community, and

**WHEREAS**, the Commission further finds that this use is proposed in an industrial area with a mix of similar office and industrial uses. Building materials and site design are similar to those in the area, and

**WHEREAS**, the Commission further finds that this development generally conforms to the Land Development Code, with the exception of the requested waivers which appear to be adequately justified, and

**WHEREAS**, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the detailed district development plan **ON CONDITION** that the plan will be revised to show that it meets the ILA requirements and all parking requirements, **SUBJECT** to the following binding elements:

**Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the



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Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the

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content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

7. No overnight idling or idling of trucks while loading or unloading equipment shall be permitted on-site.
8. Applicant shall submit a revised rendering of the proposed building to Staff that illustrates the mitigation of the waiver of animating features as discussed at the Planning Commission hearing held on September 7, 2017.

**The vote was as follows:**

**YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, Smith, and Lindsey.**

**NO: No one**

**NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.**

**ABSTAIN: No one**